

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q103120	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	Filed	
	10/500,900	April 21, 2005	
	First Named Inventor		
	Denis J. D. FAUCONNIER		
	Art Unit	Examiner	
	2617	Fred A CASCA	
<p style="text-align: center;">WASHINGTON OFFICE 23373 CUSTOMER NUMBER</p>			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal</p> <p>The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p><input checked="" type="checkbox"/> I am an attorney or agent of record.</p> <p>Registration number <u>28,703</u></p> <p style="text-align: right;"><u>/DJCushing/</u> Signature</p> <p style="text-align: right;"><u>David J. Cushing</u> Typed or printed name</p> <p style="text-align: right;"><u>(202) 293-7060</u> Telephone number</p> <p style="text-align: right;"><u>August 25, 2008</u> Date</p>			

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q103120

Denis J. D. FAUCONNIER, et al.

Appln. No.: 10/500,900

Group Art Unit: 2617

Confirmation No.: 8868

Examiner: Fred A CASCA

Filed: April 21, 2005

For: METHOD FOR CONTROLLING COMMUNICATION CHANNELS AND BASE
STATION AND TERMINAL THEREFOR

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Applicant files this Request for Review, together with a Notice of Appeal.

The present application includes 39 claims, of which claims 1, 19 and 32 are independent. Claims 1-9 and 14-39 are rejected as unpatentable over Odenwalder et al in view of Akao and further in view of Kayama et al. Claims 1-9 and 14-39 are also rejected as unpatentable over Odenwalder et al in view of Akao and Kayama et al, and further in view of well known prior art.¹ There is no suggestion as to how the “well known prior art” applies to any

¹ It appears that in this second rejection, stated in paragraph 4 at page 7 of the final Office action mailed February 25, 2008, the examiner may have intended to reject claims 10-13, although it is somewhat unclear what claims are included in this rejection because the only claims mentioned in the remarks in support of this rejection are claims 10-13, 20-31 and 33-39.

of claims 1, 19 and 32. Thus, it is believed that only a discussion of the first rejection is appropriate here.

According to an aspect of the invention as reflected in claim 1:

(1) A list of shared channels is allocated to a base station, the list including several sets of shared channels;

(2) A control facility indicates to the mobile terminal the list of shared channels that is allocated to the base station.

(3) Finally, the base station selects one of the several sets of shared channels and, independently of the control facility, indicates the selected set to the mobile terminal by way of a dedicated channel between the base station and mobile terminal.

As explained in the response filed November 23, 2007, in the last two paragraphs of page 4 and the first two paragraphs of page 5, Odenwalder et al fails to teach any of the above features (1)-(3), and in particular does not teach either of its control channels as being dedicated to a single subscriber, and does not teach having a base station select one of plural sets of shared channels and then use a dedicated channel to advise the terminal of which set has been selected.

In the final Office action mailed February 25, 2008, the examiner dismisses the distinctions and attempts to again support the rejection, and the attention of the review panel is directed to appellant's arguments beginning at the second paragraph of page 2 and continuing to the first paragraph of page 4 of the Request For Reconsideration filed June 25, 2008

The examiner purports to respond to these points in the Advisory Action mailed July 14, 2008, but he repeatedly misses the point.

Regarding the problem that Odenwalder does not teach using a control channel dedicated to a particular terminal to send the selected channel set information to the terminal, the examiner points to Odenwalder's teaching that a control channel is used to send information that a traffic channel is to be shared, and the use of a control channel to carry information regarding setting up of a call. But the examiner neglects to point to anywhere in Odenwalder where it is stated that this control channel would be a control channel dedicated to a particular terminal. Sending information assisting in the setting up of a call does not inherently mean that the control channel is dedicated to a particular terminal, as the examiner seems to assume.

Regarding the problem that Odenwalder does not teach the base station selecting one of the several sets of shared channels and indicating the selected set to the mobile terminal by way of a dedicated channel between the base station and mobile terminal, in the Advisory Action the examiner simply dismisses this as not being recited in the claims. Appellants do not understand what the examiner considers to be the meaning of the claim language bold-faced in the following reproduction of claim 1:

1. A method of controlling communication channels between a base station and terminals, including channels that are shared by the terminals so as to communicate with said base station and ***at least one channel of the base station that is dedicated to one of the terminals***, the method comprising the following steps: allocating a list of shared channels, which list is composed of several sets of shared channels, to the base station; for a communication session between the base station and said terminal, ***indicating to the terminal, from a control facility, the list of shared channels that is allocated to the base station***; and at the base station level, ***selecting for the terminal one of the sets of shared channels and, independently of the control facility, indicating the selected set to the terminal by way of said dedicated channel***.

Finally, in the last paragraph of remarks in the Advisory Action the examiner discusses how, e.g., adjacent base stations in an FDMA system may use different sets of frequencies. But

Pre-Appeal Brief Request for Review
USSN 10/500,900

this is only marginally relevant to what is claimed. Claim 1 requires allocation of plural sets of channels to a single base station. This does not read on the allocation of a different set of channels to each of plural different base stations. Claim 1 requires that the base station select one set from the plural sets that have been allocated to it, and then tell the terminal which set has been selected. This concept is simply not present in any of the prior art discussed at length by the examiner.

Independent claims 19 and 32 distinguish over the art for the same reasons as claim 1, as do all of the claims dependent from each of these independent claims.

Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: August 25, 2008

/DJCushing/
David J. Cushing
Registration No. 28,703